

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

OVAL AND MARY ANN RITCHIE)	
)	
COMPLAINANTS)	
)	
VS.)	CASE NO.
)	92-534
CLARK RURAL ELECTRIC COOPERATIVE)	
CORPORATION)	
)	
DEFENDANT)	

O R D E R

On December 3, 1992, Oval and Mary Ann Ritchie filed a complaint charging Clark Rural Electric Cooperative Corporation ("Clark RECC") with terminating service wrongfully, billing excessively, and damaging personal property. The Commission, by Order of December 11, 1992, directed Clark RECC to either satisfy the matters complained of in the complaint or file a written answer within 10 days of the date of the Order. On December 23, 1992, Clark RECC filed its answer denying the allegations in the complaint. A hearing was held on the complaint before the Commission on March 3, 1993 at which Mary Ann Ritchie and Clark RECC appeared but only Clark RECC was represented by counsel.

FINDING OF FACTS

Clark RECC is a cooperative corporation that owns, controls, and operates facilities used in the distribution of electricity to the public for compensation for light, heat, power, or other uses. Its principal offices are located in Winchester. The Ritchies

reside in Mt. Sterling and have been customers of Clark RECC at their present address since November 5, 1991. The Ritchies are not the owners of their home but are purchasing it under a land contract.

Customers of Clark RECC are charged for electric service based upon the volume of electricity they consume. The volumes of electricity delivered to residential customers are measured by individual electric meters assigned to each customer. Customers are requested to read their meters each month and to return their readings on forms attached to their electric bill for the previous month. To ensure that the readings are accurate, it is the policy of Clark RECC to send one of its meter readers to read each meter periodically. Customer readings must be received by the 10th day of each month to be used by the utility. Electric bills for customers who do not return their forms on time are prepared from estimates of usage. The estimates are made by a computer on a program that is based upon the customer's usage history.

Termination of Service

A service history of the Ritchies prepared by Clark RECC reveals that for the first six months of service, only the bills for the first two months, November and December 1991, were made from meter readings submitted by the Ritchies. The bills for January, February, and March 1992 were based upon estimates and the bill for April was based upon a reading made by a Clark RECC meter reader. Because the Ritchies were new customers and had not established a pattern of usage, the computer estimates for January,

February, and March were apparently well below the Ritchies' actual usage. Consequently, when the meter was read by the meter reader for April, the Ritchies were charged \$1,056.79 for 17,600 kilowatt hours ("kwh").¹ By comparison, the computer-generated estimate for March was only 1,085 kwh for which the Ritchies were charged \$78.77.

The April bill was sent to the Ritchies on June 1, 1992. Payment of the bill was due by June 10, and when payment was not made, a "cut-off" notice was sent to the Ritchies advising them that unless payment was made within a prescribed time, their service would be terminated. The record does not reflect how much time was allowed, but according to Clark RECC's tariff, the allowable period is not less than 27 days from the mailing date of the original bill.²

On June 24, 1992, when payment was not received, the Ritchies' electric service was disconnected. Service was restored on June 25, 1992 after Mrs. Ritchie paid Clark RECC the amount of the bill plus a connection fee of \$30. The payment, however, was made by check which the bank returned on July 2, 1992 for insufficient funds and service was again discontinued on that date.

¹ The actual bill was \$1,151.49 and included a \$15 meter reading charge and arrearages of \$79.70.

² Clark Rural Electric Cooperative Corporation Rules and Regulations, Section 18.

A "turn-off/turn-on" charge of \$30 and a returned check charge of \$5 were added to the bill bringing the balance owed to \$1,346.66.

The Ritchies paid Clark RECC \$1,090 on July 3, 1992. Clark RECC applied the payment to the amount owed and restored service. On July 10, 1992, a second "cut-off" notice was sent to the Ritchies for the balance owed of \$256.66. When payment was not made, Clark RECC on July 22, 1992 disconnected the Ritchies for the third time. In the course of disconnecting the Ritchies' service on that occasion, the serviceman discovered that the seal on the meter cover and the seal on the meter were both broken. When a meter is discovered in this condition, it is the policy of Clark RECC to remove the meter so that it can be tested for tampering. In accordance with that policy, the meter was removed from the residence. When tested, the results indicated no evidence of tampering of the meter.

On July 24, 1992, Clark RECC agreed to install a new meter and restore service if the Ritchies would pay the unpaid balance through July 22, 1992 of \$345.08. Payment was made by a check from the Ritchies' daughter and service was restored. On August 4, 1992, this check was also returned by the bank, but the Ritchies were able to obtain a money order for \$350.08³ and paid Clark RECC the amount owed on August 6, 1992. Since then, the Ritchies have apparently stayed current in the payment of their electric bills.

³ A \$5 returned check fee was added to the account, increasing the amount owed to the amount paid.

Clark RECC is a public utility subject to the jurisdiction of this Commission. As a public utility, it is authorized by KRS 278.030 and 278.160 to adopt reasonable conditions for service, including a provision that service to customers who default in payment may be discontinued. Such provisions are recognized and approved as a valid means to provide a more efficient and effective method of collecting delinquent accounts than the alternative of filing lawsuits to collect the numerous unpaid small bills that may be scattered among its many customers. Huff v. Electric Plant Board of Monticello, KY, 299 S.W.2d 817, 818 (1957). In using this method, however, the utility must follow its own written procedures. Clark RECC failed to do so on June 24, 1992 when it disconnected service to the Ritchies prematurely.

The delinquent bill upon which the disconnection was predicated was issued on June 1, 1992. By the terms of Clark RECC's regulations, service could not be discontinued less than 27 days from that date. Service, therefore, should not have been discontinued prior to June 28, 1992 and Clark RECC acted wrongfully when it discontinued service prior to that date. Likewise, Clark RECC should not have charged the reconnection fee of \$30 when it restored service to the Ritchies the next day since the discontinuance of service that engendered the fee was improper. The June 24, 1992 reconnection fee should thus be refunded to the Ritchies. The other actions and charges taken by Clark RECC, including the subsequent disconnections of the Ritchies on July 2, 1992 and July 22, 1992 were consistent with its regulations and,

therefore, the complaint with respect to those actions should be dismissed.

Excessive Billing

When service was restored to the Ritchies on July 24, 1992, a new meter was installed at their residence. The Ritchies complain that the original meter installed on their home was recording more electricity than was actually used and, as proof of their position, they cite the fact that even though this past winter was colder than the previous winter, they paid less for electricity this winter than they had the year before.

After the first meter was removed from the Ritchies' residence on July 24, it was tested by Clark RECC for accuracy. According to the test, the meter was registering between 99.5 percent and 100 percent of electricity passing through it.

While there was a decrease in the recorded consumption of electricity after the second meter was installed, the decrease was not so significant as to indicate a malfunction in the original meter. Furthermore, after its removal from the Ritchie residence, the meter was tested and found to be operating within the accuracy parameters prescribed by 807 KAR 5:016, Section 15. Therefore, there is no evidence to support the Ritchies' complaint that they were billed for more electricity than they received and that portion of the complaint should be dismissed.

Damage to Personal Property

Electric service to the Ritchie house was discontinued on July 22, 1992 by disconnecting the power at a transformer on the

electric pole that serves the residence. When service was restored on July 24, 1992, only one of the two sides of the transformer was energized. Consequently, only one of two circuits in the house received electricity. When Clark RECC was notified of the condition, a serviceman was sent to the home and he corrected the problem.

The Ritchies claim that their refrigerator functioned properly before the electricity was turned off on July 22, 1992, but after service was restored, the refrigerator no longer cooled. Although no repairman has examined the refrigerator to diagnose the cause of its present condition, the Ritchies attribute its malfunction to the serviceman's failure to correctly reconnect their electric service.

There is no evidence to support the Ritchies' complaint that the refrigerator is malfunctioning as a result of Clark RECC's failure to properly reconnect service to their home on July 24, 1992. On the contrary, the evidence presented by Clark RECC negates that claim. Therefore, the complaint of damage to personal property by the Ritchies against Clark RECC should, likewise, be dismissed.

This Commission being otherwise sufficiently advised,

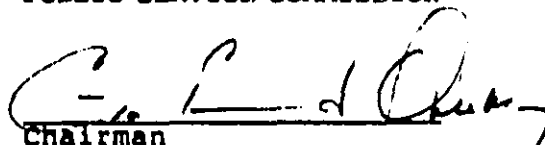
IT IS ORDERED that:

1. Clark RECC shall refund or credit \$30 to Oval and Mary Ann Ritchie the amount charged to reconnect their home with electricity on June 25, 1992.

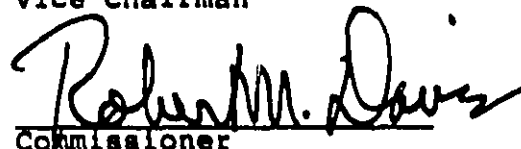
2. The remainder of the complaint filed by the Ritchies against Clark RECC be and is hereby dismissed.

Done at Frankfort, Kentucky, this 6th day of May, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director